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The inalienable right to develop research, production and uses of nuclear energy for peaceful purposes

Working paper submitted by the Group of Non-Aligned States Parties to the Treaty on the Non-Proliferation of Nuclear Weapons

1. The Group of Non-Aligned States Parties to the Treaty on the Non-Proliferation of Nuclear Weapons emphasizes once more that promoting international cooperation in the peaceful uses of nuclear energy for the realization of "the inalienable right of all the parties to the Treaty to develop research, production and use of nuclear energy for peaceful purposes without discrimination and in conformity with articles I and II of this Treaty", as stipulated in its article IV, constitutes one of the fundamental objectives of the Treaty. The Group strongly calls upon all States parties to the Treaty to fully respect this inalienable right and underscores that nothing in the Treaty shall be interpreted as affecting this right.

2. The Group of Non-Aligned States Parties to the Treaty also reaffirms the importance of the right of States parties to participate in the fullest possible exchange of equipment, materials and scientific and technological information for the peaceful uses of nuclear energy, as well as their right to cooperate among themselves, in particular in the technological field, in contributing alone or together with other States or international organizations to the further development of the applications of nuclear energy for peaceful purposes, with due consideration for the needs of the developing areas of the world.

3. The Group of Non-Aligned States Parties to the Treaty is of the firm belief that the full, effective and non-discriminatory implementation of article IV of the Treaty plays a crucial role in achieving the object and purpose of the Treaty. In this regard, the Group also firmly believes that any measure aimed at hampering, fully or partly, the fullest exercise of these inalienable rights would seriously jeopardize the delicate balance between rights and obligations of States parties, in contravention of the Treaty's object and purpose, and would widen the gap between developed and developing countries in that field.

4. The Group of Non-Aligned States Parties to the Treaty recalls that the statute of the International Atomic Energy Agency (IAEA) also stipulates the right of member States to use atomic energy for peaceful purposes and to promote socioeconomic development by way of technical cooperation and the production of electric power,

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with due consideration for the needs of developing countries. To ensure the realization of these goals, all States parties, developed ones in particular, shall extend their assistance, as requested by States parties that are States members of IAEA, in the provision of nuclear equipment, material, technology and scientific and technological information for peaceful purposes, with a view to achieving the maximum benefits and applying pertinent elements of sustainable development in their activities for peaceful purposes.

5. In this connection, the Group of Non-Aligned States Parties to the Treaty recognizes the major and important role of IAEA in assisting, in particular developing States parties to the Treaty, in planning for and the use of nuclear science and technology. The Group stresses the importance of nuclear knowledge-sharing and the transfer of nuclear technology to developing countries for the sustaining and further enhancement of their scientific and technological capabilities, thereby also contributing to their socioeconomic development. Moreover, the Group underlines that the activities of IAEA in the field of technical cooperation, nuclear power and non-power applications contribute in an important way to meeting energy needs, improving human health, including the application of nuclear technology in cancer therapy, combating poverty, protecting the environment, developing agriculture, managing the use of water resources and optimizing industrial processes, and that these activities, as well as bilateral and other multilateral cooperation, contribute to achieving the objectives set forth in article IV of the Treaty.

6. The Group of Non-Aligned States Parties to the Treaty stresses that the IAEA technical cooperation programme, as the main vehicle for the transfer of nuclear technology for peaceful purposes, should continue to be formulated and implemented in accordance with the IAEA statute and the agreed guiding principles as contained in INFCIRC/267, as well as the decisions of the IAEA policymaking organs. The Group reiterates that the current guidelines and criteria for the selection of technical cooperation projects are robust and effective, and that no additional criteria should be imposed for fulfilling the above objectives.

7. The Group of Non-Aligned States Parties to the Treaty recalls that IAEA and its then-Director General, Mohamed ElBaradei, were awarded the 2005 Nobel Peace Prize, and reiterates the importance it attaches to the impartiality, professionalism and integrity of IAEA. While expressing its full confidence in the impartiality and professionalism of IAEA, the Group strongly rejects any attempts by any State to politicize the work of IAEA, including its technical cooperation programme, in violation of its statute, as well as any pressure on or interference in the Agency's activities that could jeopardize the efficiency and credibility of IAEA. In this connection, the Group also expresses its rejection of any attempts by any State party to use the IAEA technical cooperation programme as a tool for political purposes, which is in violation of the statute of IAEA. The Group reaffirms that the choices and decisions of each State party to the Treaty in the field of peaceful uses of nuclear energy should be fully respected without jeopardizing that State's policies or international cooperation agreements and arrangements for peaceful uses of nuclear energy and its fuel-cycle policies.

8. In this regard, while recognizing that a diverse portfolio of energy sources will be needed to allow access to sustainable energy and electricity resources in all regions of the world, and that States parties may pursue different ways to achieve their energy security and climate protection goals, the Group of Non-Aligned States Parties to the Treaty once again acknowledges and reaffirms that each State party to the Treaty has the sovereign right to define its national energy policies, including fuel-cycle policies, in accordance with its national requirements and its rights and obligations under the Treaty.

9. The Group of Non-Aligned States Parties to the Treaty stresses that multilateral approaches to the nuclear fuel cycle, including proposals for assurance of supply in response to the needs of interested States, shall fully take into account all technical, legal, political and economic complexities surrounding these issues, and be conducted through wide, integral, comprehensive and transparent multilateral consultations and negotiations. The multilateral approaches to the nuclear fuel cycle should be economically viable, sustainable, non-discriminatory, predictable and transparent under the auspices of IAEA, as well as other possible regional and multilateral forums. The Group also stresses that any decision on proposals regarding multilateral approaches to the nuclear fuel cycle shall be made by consensus taking into account the interests of all member States, with the participation of all IAEA member States, and that any proposal from IAEA must be consistent with its statute, without prejudice to the inalienable right of States parties to the Treaty, if they so decide, to develop a full national fuel cycle, in accordance with article IV of the Treaty.

10. The Group of Non-Aligned States Parties to the Treaty underlines that "all the parties to the Treaty undertake to facilitate, and have the right to participate in, the fullest possible exchange of equipment, materials and scientific and technological information for the peaceful uses of nuclear energy" (art. IV, para. 2). In this regard, the Group stresses particularly the obligation of developed countries to promote the legitimate need of the developing countries for nuclear energy, by fully respecting this right with a view to achieving the widest benefits and applying pertinent elements of sustainable development in their activities.

11. The Group of Non-Aligned States Parties to the Treaty underlines the contribution that uses of nuclear energy can make to progress in general and to helping overcome the technological and economic disparities between developed and developing States parties to the Treaty in particular. The Group firmly believes that as a fundamental principle, in all activities designed to promote the peaceful uses of nuclear energy, preferential treatment shall be given to the non-nuclear-weapon States parties to the Treaty, taking particularly the needs of developing countries into account.

12. The Group of Non-Aligned States Parties to the Treaty expresses its deep concern about the continued imposition and/or maintaining of limitations and restrictions on exports to developing countries of nuclear material, equipment and technology for peaceful purposes, which is inconsistent with the provisions of the Treaty. In this regard, the Group stresses that the technical cooperation and assistance provided by IAEA in meeting the needs of its member States for material, equipment and technology for peaceful uses of nuclear energy shall not be subject to any political, economic, military or other conditions incompatible with the provisions of its statute. The Group therefore strongly calls for the immediate removal of any restrictions or limitations imposed on peaceful uses of nuclear energy that are incompatible with the provisions of the Treaty. In the view of the Group, transfers of nuclear technology and international cooperation among States parties in conformity with the Treaty shall be supported and pursued in good faith without discrimination. The elimination of constraints inconsistent with the requirements of the Treaty would ensure that article IV of the Treaty is fully implemented with regard to the facilitation of transfer of nuclear material, equipment and technological information for peaceful purposes among the States parties.

13. The Group of Non-Aligned States Parties to the Treaty emphasizes that the Treaty does not prohibit the transfer or use of nuclear technology, equipment or material for peaceful purposes based on their "sensitivity", and only stipulates that such technology, equipment and material must be subject to the full scope of IAEA safeguards. The Group firmly believes that fostering the development of the peaceful uses of nuclear energy by providing a framework of confidence and cooperation

within which those uses can take place is one of the fundamental objectives of the Treaty. Moreover, the Group emphasizes that cooperation to accelerate and enlarge the contribution of atomic energy to peace, health and prosperity throughout the world is the core objective enshrined in the IAEA statute. Accordingly, the Group strongly encourages all States parties to actively cooperate, among themselves and through IAEA, in the peaceful uses and applications of nuclear energy, including through international technical cooperation.

14. The Group of Non-Aligned States Parties to the Treaty emphasizes that proliferation concerns are best addressed through multilaterally negotiated, universal, comprehensive and non-discriminatory agreements. The Group further emphasizes that non-proliferation control arrangements should be transparent and open to participation by all States, and should not impose restrictions on access to material, equipment and technology for peaceful purposes required by developing countries for their continued development. Furthermore, such arrangements must pursue and implement, without exception, the condition of adherence to IAEA comprehensive safeguards and to the Treaty on the Non-Proliferation of Nuclear Weapons as a condition for supply to or cooperation with States that are not parties to the Treaty.

15. The Group of Non-Aligned States Parties to the Treaty remains deeply concerned about the ability of certain States that are not parties to the Treaty to obtain, in particular from some nuclear-weapon States, nuclear materials, technology and know-how to develop nuclear weapons. The Group strongly calls for the enforcement, without exception or further delay, of the total and complete prohibition, as stipulated in the Treaty, of the transfer of all nuclear-related equipment, information, material and facilities, resources or devices, and of the extension of assistance in the nuclear, scientific or technological fields, to States that are not parties to the Treaty.

16. The Group of Non-Aligned States Parties to the Treaty underscores that IAEA, under its statutory obligations, pursues the goals of technical cooperation in peaceful applications of nuclear energy as one of the three pillars of its activities. In order to meet the objectives of peaceful purposes as enshrined in the statute of IAEA and in the Treaty, IAEA has to maintain the balance between technical cooperation and other activities. The Group believes that all States parties to the Treaty that are States members of IAEA have to ensure that the technical cooperation programme remains firm and sustainable through sufficient, assured and predictable financial and human resources. In this regard, the efficacy of the technical cooperation programme can best be ensured by the formulation of the programme and the strategies strictly in accordance with the needs and the requests of the developing countries.

17. The Group of Non-Aligned States Parties to the Treaty affirms the need to strengthen the radiological safety and protection systems at facilities utilizing radioactive materials as well as at radioactive waste management facilities, including the safe transportation of these materials. The Group reaffirms the need to strengthen existing international regulations relating to the safety and security of transportation of such materials. While reiterating the need to take necessary measures to prevent any dumping of nuclear or radioactive wastes, the Group calls for effective implementation of the IAEA Code of Practice on the International Transboundary Movement of Radioactive Waste as a means of enhancing the protection of all States from the dumping of radioactive wastes on their territories.

18. The Group recognizes that the primary responsibility for nuclear safety rests with individual States. The Group reaffirms the central role of IAEA in nuclear-safety-related matters including through the establishment of nuclear safety standards. The Group stresses that IAEA must retain its centrality in this field, owing to its mandatory functions and long-standing expertise. The Group stresses that any possible review of nuclear safety standards at the global level must be carried out

within IAEA in an inclusive, gradual and transparent manner and in consultation with and based on the guidance and participation of all member States, and shall incorporate the views of all member States. The Group also calls for the implementation of the Action Plan on Nuclear Safety endorsed by the IAEA General Conference in September 2011.

19. The Group emphasizes that measures and initiatives aimed at strengthening nuclear safety and nuclear security must not be used as a pretext or leverage to violate, deny or restrict the inalienable right of developing countries to develop research, production and use of nuclear energy for peaceful purposes without discrimination.

20. The Group of Non-Aligned States Parties to the Treaty emphasizes that non-proliferation must be pursued and implemented, without exception, through the strict observance of, and adherence to, IAEA comprehensive safeguards and the Treaty as a condition for any cooperation in the nuclear area with States that are not parties to the Treaty. In the view of the Group, new supply arrangements for the transfer of source or special fissionable material or equipment or material especially designed or prepared for the processing, use or production of special fissionable material to non-nuclear-weapon States should require, as a necessary precondition, acceptance of the full scope of IAEA safeguards and internationally legally binding commitments not to acquire nuclear weapons or other nuclear explosive devices.

21. In this regard, the Group of Non-Aligned States Parties to the Treaty underscores the strong call by the 2010 Review Conference of the Treaty that all States parties shall ensure that their nuclear-related exports do not directly or indirectly assist the development of nuclear weapons or other nuclear explosive devices and that such exports are in full conformity with the objectives and purposes of the Treaty as stipulated, particularly, in articles I, II and III of the Treaty, as well as the decision on principles and objectives for nuclear non-proliferation and disarmament adopted in 1995 by the Review and Extension Conference of the Parties to the Treaty.

22. The Group of Non-Aligned States Parties to the Treaty once again reaffirms the inviolability of peaceful nuclear activities and that any attack or threat of attack against peaceful nuclear facilities, operational or under construction, poses a great danger to human beings and the environment, and constitutes a grave violation of international law, the principles and purposes of the Charter of the United Nations and the regulations of IAEA. In this regard, the Group recognizes the need for a comprehensive, multilaterally negotiated instrument prohibiting attacks, or the threat of attacks, on nuclear facilities devoted to peaceful uses of nuclear energy. Moreover, the Group strongly calls upon all States, in accordance with the purpose and principles of the Charter, to refrain from attack or threat to attack nuclear facilities, operational or under construction, devoted to peaceful purposes.

23. The Group of Non-Aligned States Parties to the Treaty expresses its serious concern over certain unilateral, politically motivated attempts to hamper States parties from exercising their inalienable rights to develop research, production and use of nuclear energy for peaceful purposes, and believes, in this regard, that interpretations in the application of safeguards shall not be used as a tool to that end. In the view of the Group, article III, while providing for the undertaking by each non-nuclear-weapon State to conclude safeguards agreements with IAEA, is equally explicit in articulating that the implementation of such safeguards shall be "in a manner designed to comply with article IV of this Treaty, and to avoid hampering the economic or technological development of the parties or international cooperation in the field of peaceful nuclear activities, including the international exchange of nuclear material and equipment for the processing, use or production of nuclear material for peaceful purposes".

24. The Group of Non-Aligned States Parties to the Treaty, while stressing the importance of safeguards and the significance of maintaining the principles of confidentiality regarding safeguards, underlines the vital responsibility of IAEA in this regard. Since the Agency is the only organization that receives highly confidential and sensitive information on the nuclear facilities of member States, and given the undesirable incidents of leakage of such information, the Group emphasizes that the confidentiality of such information shall be fully respected and that the regime for their protection needs to be greatly strengthened. In the view of the Group, safeguards-related confidential information should not be provided in any way to any party not authorized by the Agency.

25. The Group of Non-Aligned States Parties to the Treaty is determined to propose during the 2020 review process of the Treaty measures required to ensure that the inalienable rights of all States parties under the Treaty to develop research, production and use of nuclear energy for peaceful purposes without discrimination are fully protected.